

SENATE BILL No. 310

DIGEST OF INTRODUCED BILL

Citations Affected: IC 31-34-21-5.6; IC 35-42-2-2.

Synopsis: Criminal recklessness. Makes criminal recklessness a Class C felony instead of a Class B misdemeanor if it is committed by shooting a firearm into an inhabited dwelling or other building or place where people are likely to gather. (Current law makes criminal recklessness committed by shooting a firearm into an inhabited dwelling or other building or place where people are likely to gather a Class C felony only if the firearm is discharged from a vehicle.)

Effective: July 1, 2003.

Bowser

January 15, 2003, read first time and referred to Committee on Criminal, Civil and Public Policy.

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First Regular Session 113th General Assembly (2003)

PRINTING CODE. Amendments: Whenever an existing statute (or a section of the Indiana Constitution) is being amended, the text of the existing provision will appear in this style type, additions will appear in **this style type**, and deletions will appear in ~~this style type~~.

Additions: Whenever a new statutory provision is being enacted (or a new constitutional provision adopted), the text of the new provision will appear in **this style type**. Also, the word **NEW** will appear in that style type in the introductory clause of each SECTION that adds a new provision to the Indiana Code or the Indiana Constitution.

Conflict reconciliation: Text in a statute in *this style type* or ~~this style type~~ reconciles conflicts between statutes enacted by the 2002 Regular or Special Session of the General Assembly.

SENATE BILL No. 310

A BILL FOR AN ACT to amend the Indiana Code concerning criminal law and procedure.

Be it enacted by the General Assembly of the State of Indiana:

1 SECTION 1. IC 31-34-21-5.6, AS AMENDED BY P.L.217-2001,
2 SECTION 10, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
3 JULY 1, 2003]: Sec. 5.6. (a) A court may make a finding described in
4 this section at any phase of a child in need of services proceeding.

5 (b) Reasonable efforts to reunify a child with the child's parent,
6 guardian, or custodian or preserve a child's family as described in
7 section 5.5 of this chapter are not required if the court finds any of the
8 following:

9 (1) A parent, guardian, or custodian of a child who is a child in
10 need of services has been convicted of:

11 (A) an offense described in IC 31-35-3-4(1)(B) or
12 IC 31-35-3-4(1)(D) through IC 31-35-3-4(1)(J) against a
13 victim who is:

14 (i) a child described in IC 31-35-3-4(2); or

15 (ii) a parent of the child; or

16 (B) a comparable offense as described in clause (A) in any
17 other state, territory, or country by a court of competent



- 1 jurisdiction.
- 2 (2) A parent, guardian, or custodian of a child who is a child in
- 3 need of services:
- 4 (A) has been convicted of:
- 5 (i) the murder (IC 35-42-1-1) or voluntary manslaughter (IC
- 6 35-42-1-3) of a victim who is a child described in
- 7 IC 31-35-3-4(2)(B) or a parent of the child; or
- 8 (ii) a comparable offense described in item (i) in any other
- 9 state, territory, or country; or
- 10 (B) has been convicted of:
- 11 (i) aiding, inducing, or causing another person;
- 12 (ii) attempting; or
- 13 (iii) conspiring with another person;
- 14 to commit an offense described in clause (A).
- 15 (3) A parent, guardian, or custodian of a child who is a child in
- 16 need of services has been convicted of:
- 17 (A) battery (IC 35-42-2-1(a)(5)) as a Class A felony;
- 18 (B) battery (IC 35-42-2-1 (a)(4)) as a Class B felony;
- 19 (C) battery (IC 35-42-2-1(a)(3)) as a Class C felony;
- 20 (D) aggravated battery (IC 35-42-2-1.5);
- 21 (E) criminal recklessness (~~IC 35-42-2-2(c)~~) **(IC 35-42-2-2(d))**
- 22 as a Class C felony;
- 23 (F) neglect of a dependent (IC 35-46-1-4) as a Class B felony;
- 24 or
- 25 (G) a comparable offense described in clauses (A) through (F)
- 26 in another state, territory, or country;
- 27 against a child described in IC 31-35-3-4(2)(B).
- 28 (4) The parental rights of a parent with respect to a biological or
- 29 adoptive sibling of a child who is a child in need of services have
- 30 been involuntarily terminated by a court under:
- 31 (A) IC 31-35-2 (involuntary termination involving a
- 32 delinquent child or a child in need of services);
- 33 (B) IC 31-35-3 (involuntary termination involving an
- 34 individual convicted of a criminal offense); or
- 35 (C) any comparable law described in clause (A) or (B) in any
- 36 other state, territory, or country.
- 37 (5) The child is an abandoned infant, provided that the court:
- 38 (A) has appointed a guardian ad litem or court appointed
- 39 special advocate for the child; and
- 40 (B) after receiving a written report and recommendation from
- 41 the guardian ad litem or court appointed special advocate, and
- 42 after a hearing, finds that reasonable efforts to locate the

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1 child's parents or reunify the child's family would not be in the
2 best interests of the child.

3 SECTION 2. IC 35-42-2-2 IS AMENDED TO READ AS
4 FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 2. (a) As used in this
5 section, "hazing" means forcing or requiring another person:

6 (1) with or without the consent of the other person; and
7 (2) as a condition of association with a group or organization;
8 to perform an act that creates a substantial risk of bodily injury.

9 (b) A person who recklessly, knowingly, or intentionally performs:
10 (1) an act that creates a substantial risk of bodily injury to another
11 person; or
12 (2) hazing;

13 commits criminal recklessness. **Except as provided in subsection (c),**
14 **the offense defined in this subsection is a Class B misdemeanor.**
15 ~~However,~~

16 (c) The offense **defined in subsection (b)** is a:
17 (1) Class A misdemeanor if the conduct includes the use of a
18 vehicle;
19 (2) Class D felony if it is committed while armed with a deadly
20 weapon; or
21 (3) Class C felony if it is committed by shooting a firearm ~~from a~~
22 ~~vehicle~~ into an inhabited dwelling or other building or place
23 where people are likely to gather.

24 ~~(c)~~ (d) A person who recklessly, knowingly, or intentionally:
25 (1) inflicts serious bodily injury on another person; or
26 (2) performs hazing that results in serious bodily injury to a
27 person;

28 commits criminal recklessness, a Class D felony. However, the offense
29 is a Class C felony if committed by means of a deadly weapon.

30 ~~(d)~~ (e) A person, other than a person who has committed an offense
31 under this section or a delinquent act that would be an offense under
32 this section if the violator was an adult, who:

33 (1) makes a report of hazing in good faith;
34 (2) participates in good faith in a judicial proceeding resulting
35 from a report of hazing;
36 (3) employs a reporting or participating person described in
37 subdivision (1) or (2); or
38 (4) supervises a reporting or participating person described in
39 subdivision (1) or (2);

40 is not liable for civil damages or criminal penalties that might
41 otherwise be imposed because of the report or participation.

42 ~~(e)~~ (f) A person described in subsection ~~(d)(1)~~ (e)(1) or ~~(d)(2)~~ (e)(2)



1 is presumed to act in good faith.

2 ~~(f)~~ (g) A person described in subsection ~~(d)(1)~~ (e)(1) or ~~(d)(2)~~ (e)(2)
3 may not be treated as acting in bad faith solely because the person did
4 not have probable cause to believe that a person committed:

5 (1) an offense under this section; or

6 (2) a delinquent act that would be an offense under this section if
7 the offender was an adult.

8 SECTION 3. [EFFECTIVE JULY 1, 2003] IC 35-42-2-2, as
9 amended by this act, applies only to crimes committed after June
10 30, 2003.

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